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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,085	03/23/2004	Laurence S. Blake	213789	3846
23460	7590	10/21/2005	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			FOX, CHARLES A	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,085

Applicant(s)

BLAKE ET AL.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23, 25-27, 33-65 and 67-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-23, 25-27 and 33-52 is/are allowed.
- 6) ☒ Claim(s) 53-61, 65, 67 and 69 is/are rejected.
- 7) ☒ Claim(s) 62-64 and 68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20041022</u> | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet.</u> |

Continuation of Attachment(s) 6). Other: IDS 20040922 (total of 5 this date).

Information Disclosure Statement

The information disclosure statements (5) filed on September 22, 2004 and resubmitted on April 26, 2005 have been considered. A copy of the information disclosure statement of October 22, 2004 is also attached with all references initialed.

Terminal Disclaimer

The terminal disclaimer filed on April 26, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patents 6,726,433; 6,113,346; 6,000,337; 5,992,324; 5,893,002; 5,809,360; 5,791,250; 5,788,455; 5,738,014 and 5,655,452 has been reviewed and is accepted. The terminal disclaimer has been recorded. This terminal disclaimer renders moot the previous double patenting rejections which have been withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 53-61,65,67 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Platesetter 3244 Service Manual in view of Azzaroni. Regarding claims 53,55 and 58 Platesetter 3244 Service Manual (C80 on applicant IDS filed October 22, 2004, herein Platesetter) teaches a device for loading and developing plates comprising:

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a digital file of an image;

a plurality of plate support tables;

wherein each table corresponds to a particular plate stack;

an imaging engine with a drum and a laser for placing said digital image onto a plate;

an automated plate picker that removes a desired plate from any of the plate stacks as directed by an automatic controller;

wherein said plate picker is vertically movable to access any of the plate stacks on any of said tables. Platesetter does not teach a stationary picker with vertically movable tables. Azzaroni US 4,354,336 teaches a device for providing photosensitive plates to an imager comprising:

an elevator (83) with a plurality of tables (115);

a plate stack (109) located on each table;

a plate picker (80-81) for removing a plate from a selected plate stack for delivery to the imager;

wherein said elevator moves said tables vertically to place a preselected plate in an access position where the picker may pick up said plate;

wherein said plate picker moves in a horizontal direction with respect to the plate stack at the access level to transfer a plate to the imaging device. It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the Platesetter to have a fixed picker with a movable elevator as taught by Azzaroni in order

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to increase the throughput of the device by allowing the next plate stack needed to move to the access position as the picker was moving a plate to the imager.

In regards to claim 54 Platesetter also teaches a front end controller for sending a signal to the system for identification of a next plate that will be called for.

Regarding claims 56 and 57 Platesetter further teaches a slip sheet detection and removal device for removal of slip sheets from the top of a stack of plates.

In regards to claims 59 and 60 Platesetter also teaches that the plates are photosensitive and that the interior of the device where the plate stacks are located is light tight.

In regards to claims 61,65,67and 69 Platesetter teaches moving the plate picker towards a selected table in the magazine to pick a preselected plate.

Allowable Subject Matter

Claims 14-23,25-27,33-52 are allowed. Regarding claim 14The closest prior art of Platesetter and Azzaroni does not teach or suggest the limitation of placing the import support ((232) at the same level at the plate picker support (92) in the magazine.

Independent claim 41 has the limitations dealing with the location of the access position where the plate picker is able to access the cassettes. The closest prior art of Platesetter and Azzaroni do not teach or suggest placing the access position between the upper and lower tables in the elevator section of their devices. Claims 42-50 and 52, which depend from claim 41, are also in condition for allowance at this time.

Claims 62-64 and 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regards to claim 62 the closest prior art of Platesetter and Azzaroni do not teach or suggest moving the elevator mechanism as the picker is delivering a plate to the imaging device.

In regards to claim 63 the closest prior art of Platesetter and Azzaroni do not teach or suggest moving both the table and the picker towards each other at the same time.

In regards to claims 64 and 68 the closest prior art of Platesetter and Azzaroni do not teach or suggest moving the table to engage the picker for removal of a plate.

Response to Amendment

The amendments filed on July 25, 2005 have been entered into the record.

Response to Arguments

Applicant's arguments filed April 26, 2005 have been fully considered but they are not persuasive. Regarding the placesetter manual as not being prior art the fact that the owner of the manual does not want it copied does not mean it was not publicly available. In fact many publications carry the same warning and are sold to the general public. The reference is therefore treated as prior art.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

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hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art would realize that both the placesetter manual and the Azzaroni reference both deal with handling photosensitive plates and as such would look to them as sources of reference material. Although each reference is directed to a different type of imaging source, the basic operation of each device is to move the plates from a magazine to the imaging device. The applicant has even stated that one of ordinary skill in the art would know that different types of imaging devices are used. Therefore the references are considered analogous art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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16-17-05



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